

No. 23-1336

In the
UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit

PITTSFIELD CHARTER TOWNSHIP, MICHIGAN and COMMITTEE FOR
PRESERVING COMMUNITY QUALITY, INC.

Petitioners

v.

FEDERAL AVIATION ADMINISTRATION, MICHAEL WHITAKER, in his
official capacity as Administrator, Federal Aviation Administration, U.S.
DEPARTMENT OF TRANSPORTATION, PETE BUTTIGIEG, in his official
capacity as Secretary, U.S. Department of Transportation; MICHIGAN
DEPARTMENT OF TRANSPORTATION; and BRADLEY C. WIEFERICH, in
his capacity as Director, Michigan Department of Transportation,

Respondents

PETITIONERS' STATEMENT OF ISSUES TO BE RAISED

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*Attorneys for Petitioners, Pittsfield Charter Township, Michigan and Committee
for Preserving Community Quality, Inc.*

In accordance with this Court's Order dated January 16, 2024, Petitioners Pittsfield Charter Township, Michigan and Committee for Preserving Community Quality, Inc. (the "Petitioners") submit this non-binding statement of issues to be raised in Petitioners' petition to review the Michigan Department of Transportation, Office of Aeronautics, and Federal Aviation Administration's decision in "Finding of No Significant Impact/Record of Decision for Runway 6/24 Extension at Ann Arbor Municipal Airport Ann Arbor Michigan" (the "FONSI/ROD") signed on October 16, 2023. The issues to be raised are:

1. Whether the FAA's October 16, 2023, FONSI/ROD violated the FAA's statutory duties under the Noise Control Act and the Federal Aviation Act of 1958 by failing to protect residents and property owners from the deleterious effects of noise and was, therefore, arbitrary and capricious and not in accordance with the law.

2. Whether the FAA's October 16, 2023, FONSI/ROD violated the Clean Air Act, 42 U.S.C. § 7401 et seq. and was, therefore, arbitrary and capricious and not in accordance with the law.

3. Whether the FAA's October 16, 2023, FONSI/ROD violated the National Environmental Policy Act ("NEPA") 42 U.S.C. § 4321, et seq., and the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act ("CEQ Guidelines"), 40

C.F.R. § 1500 et seq. and was, therefore, arbitrary and capricious and not in accordance with the law.

4. Whether the FAA's October 16, 2023, FONSI/ROD violated 4(f) of the Department of Transportation Act of 1966, 40 U.S.C. § 303(c) and was, therefore, arbitrary and capricious and not in accordance with the law.

5. Whether the FAA's October 16, 2023, FONSI/ROD violated the FAA's regulations and orders and was, therefore, arbitrary and capricious and not in accordance with the law.

6. Whether in the absence of a valid Memorandum of Agreement between FAA and the State of Michigan, FAA improperly delegated federal funds to the State of Michigan for the project in question.

Dated: February 20, 2024

LEECH TISHMAN FUSCALDO & LAMPL

By: Steven M. Taber
Steven M. Taber

*Attorneys for Petitioners, Pittsfield Charter
Township, Michigan and Committee for
Preserving Community Quality, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system on February 20, 2024. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: February 20, 2024

LEECH TISHMAN FUSCALDO & LAMPL

By: Steven M. Taber
Steven M. Taber

*Attorneys for Petitioners, Pittsfield Charter
Township, Michigan and Committee for
Preserving Community Quality, Inc.*